

**BLACK DIAMOND  
CAPITAL MANAGEMENT, L.L.C.<sup>TM</sup>**

**FIRM BROCHURE**

Part 2A of Form ADV

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**This Brochure provides information about the qualifications and business practices of Black Diamond Capital Management, L.L.C., an investment adviser registered with the United States Securities and Exchange Commission (“SEC”). If you have any questions about the contents of this Brochure, please contact us at (203) 552-0888 or [info@bdcml.com](mailto:info@bdcml.com). The information in this brochure has not been approved or verified by the SEC or by any state securities authority.**

**Registration with the SEC does not imply a certain level of skill or training.**

**Additional Information about Black Diamond Capital Management, L.L.C. is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## **MATERIAL CHANGES**

Within this section, Black Diamond Capital Management, L.L.C. must identify and discuss any material changes made to its Form ADV Part 2A (the “Brochure”) since its last annual update. There have been no such changes to the Brochure since the last annual update.

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## **ADVISORY BUSINESS**

Black Diamond Capital Management, L.L.C. (“Black Diamond” or “BDCM”), a Delaware limited liability company, generates investment advice and provides investment advice and other services to affiliated entities (each, a “Black Diamond Affiliate”) for use by such Black Diamond Affiliates in advising and managing the accounts of their respective clients. Black Diamond Holdings, LLLP (“BDH”) and Black Diamond Advisors, LLLP (“BDA”), each a United States Virgin Islands limited liability partnership (collectively, the “Black Diamond Service Affiliates”), also generate investment advice and provide investment advice and other services to Black Diamond Affiliates for use by such Black Diamond Affiliates in advising and managing the accounts of their respective clients. Reference in this Brochure to “Black Diamond” includes reference to the Black Diamond Service Affiliates and Black Diamond Affiliates unless the context clearly indicates otherwise. All of the foregoing services are provided on behalf of Black Diamond Affiliates as follows:

- (1) BDCM Fund Adviser, L.L.C. acts as the general partner of and/or investment adviser to three private investment funds (one domestic and two offshore) each investing through two common master funds for which BDCM Fund Adviser, L.L.C. also acts as investment adviser. In addition, BDCM Fund Adviser, L.L.C. acts as the investment adviser to another offshore private investment fund, which invests through a special purpose master fund (“Special Purpose Master Fund”), for which BDCM Fund Adviser, L.L.C. also acts as investment adviser. These four investment funds and the three master funds are referred to collectively as the “Hedge Fund.” BDCM Fund Adviser, L.L.C. also acts as portfolio manager and commercial paper administrator, respectively, for two entities in a financing structure that provides financing to the Hedge Fund’s master fund.
- (2) BDCM Opportunity Fund Adviser, L.L.C., BDCM Opportunity Fund II Adviser, L.L.C., and BDCM Opportunity Fund III Adviser, L.L.C. each, respectively, acts as the investment adviser to a domestic private investment fund and an offshore private investment fund that invests substantially all of its assets into such domestic private investment fund. These six funds are referred to collectively as the “Opportunity Funds.”
- (3) BDCM Opportunity Fund GP, L.L.C., BDCM Opportunity Fund II GP, L.L.C. and BDCM Opportunity Fund III GP, L.L.C. each, respectively, acts as the general partner of a domestic Opportunity Fund and each is a Black Diamond Affiliate. BDCM also acts as the general partner of a domestic private investment fund which holds certain equity interests and promissory notes issued by a former portfolio company of the BDCM Opportunity Fund, L.P. (“Investment L.P.”).
- (4) GSCAH acts as the investment manager of several fund complexes, comprised of domestic private equity investment funds, which invest substantially all of their assets into offshore private equity investment funds or other domestic private equity investment funds, including the “European Mezzanine Funds,” the “Recovery Funds” and the “GSCP Funds,” collectively, the “GSC Private Equity Funds,” which together with the “Opportunity Funds,” are referred to as the “Private Equity Funds.”

(5) GSC European Mezzanine GP, L.L.C, and GSC European Mezzanine Investors, L.P. and GSC Mezzanine II GP, L.L.C. and GSC European Mezzanine Investors II, L.P., each, respectively acts as the general partner of a domestic European Mezzanine Fund or the general partner of an offshore general partner of an offshore European Mezzanine Fund, and each is a Black Diamond Affiliate.

(6) GSC RII, LLC, GSC Recovery II GP, L.P., GSC RIIA, LLC, GSC Recovery IIA GP, L.P. and GSC RIII, LLC and GSC Recovery III GP, L.P., each, respectively acts as the general partner of a domestic Recovery Fund or the general partner of a general partner of a domestic Recovery Fund, and each is a Black Diamond Affiliate.

(7) Greenwich Street Investments, L.P. and Greenwich Street Investments II, L.L.C. each acts as the general partner of a domestic or offshore GSCP Fund, and each is a Black Diamond Affiliate.

(8) Black Diamond CLO 2005-1 Adviser, L.L.C., Black Diamond CLO 2005-2 Adviser, L.L.C., Black Diamond CLO 2006-1 Adviser, L.L.C. and Black Diamond CLO 2012-1 Adviser, L.L.C. each, respectively, acts as the collateral manager of a collateralized loan obligation vehicle (the “BD CLOs”).

(9) GSCAH acts as the collateral manager of multiple fund complexes of collateralized debt obligations, which are comprised of the “GSC US CDOs,” the “European CDOs” and the “ABS CDOs,” collectively, the “GSC CDOs.” The BD CLOs and the GSC CDOs are collectively referred to as the “CLOs.”

(10) Black Diamond also provides services to GSCP (NJ), L.P., an investment adviser affiliated with GSC Group, Inc., pursuant to a Services Agreement between BDCM and GSCP (NJ), L.P. (the “Services Agreement”).

Black Diamond identifies investment opportunities, primarily in the credit markets, for the clients of the Black Diamond Affiliates and participates in the acquisition, monitoring and disposition of their investments. The individual needs of the investors in the funds managed by Black Diamond Affiliates (the funds are generally referred to as “clients” in this Brochure) are not the basis of Black Diamond’s investment advice, and investment advice is provided to the clients of the Black Diamond Affiliates, not the investors in such clients.

The Black Diamond Affiliates have the right to enter and have entered into agreements, such as side letters, with certain underlying investors of certain clients that may provide for terms of investment that are more favorable to the terms provided to other underlying investors of such clients. Such terms may include the waiver or reduction of management and/or incentive fees/allocations, the provision of additional reports and rights related to regulatory requirements applicable to specific investors.

The Black Diamond Affiliates do not have any offices or employees that are separate from the offices and employees of BDCM (including BDH and BDA), which maintain all of the books and records of Black Diamond and the Black Diamond Affiliates. BDH and BDA are not separately registered investment advisers with the SEC, but are relying on the SEC registration of BDCM, with which they are under common control. All investment

advisory activities of BDH and BDA are subject to the Investment Advisers Act of 1940, as amended (the “Advisers Act”) and the rules thereunder and their employees acting on behalf of the Black Diamond Affiliates perform such activities under common supervision and control with BDCM. The Black Diamond Affiliates are not separately registered as investment advisers with the SEC, but are relying on the SEC registration of BDCM, with which they are under common control. All investment advisory activities of the Black Diamond Affiliates are subject to the Advisers Act and the rules thereunder, and persons acting on behalf of the Black Diamond Affiliates perform such activities under common supervision and control with BDCM.

The Black Diamond Affiliate, originally named Black Diamond Capital Management, L.L.C., but now known as “Black Diamond Fund Adviser, L.L.C.” has been advising clients since January 1995. Since October 2006, Black Diamond has provided investment advisory services on behalf of the Black Diamond Affiliates for the benefit of the Black Diamond clients. Since October 2011, the Black Diamond Service Affiliates have provided investment advisory services on behalf of the Black Diamond Affiliates for the benefit of the Black Diamond clients.

BDCM is owned by Black Diamond Capital Holdings, L.L.C. SD Investments, LLC owns approximately 80% of Black Diamond Capital Holdings, L.L.C. Stephen H. Deckoff owns SD Investments, LLC. Stephen H. Deckoff and Black Diamond GP, LLC own approximately 80% of both BDA and BDH. Stephen H. Deckoff owns approximately 80% of Black Diamond GP, LLC.

As of December 31, 2012, Black Diamond manages approximately \$11,158,325,990 of client assets, all of which is managed on a discretionary basis. This figure includes assets for which Black Diamond provides investment advisory services to GSCP (NJ), L.P. pursuant to the Services Agreement.

### **FEES AND COMPENSATION**

Black Diamond’s management fees range from a combined senior and subordinated collateral management fee of 0.5% to 1.0% per annum of assets managed in the BD CLOs and 0.6% to 1.0% per annum of the assets managed in the GSC CDOs, to 2% per annum of assets managed in the Hedge Funds. Black Diamond’s management fee for the Special Purpose Master Fund ranges from 0 to 2% per annum of assets depending on the share class. In lieu of a management fee for the 0% share class, Black Diamond receives combined senior and subordinated collateral management fees of 0.50% from a collateralized loan obligation vehicle in which the Special Purpose Master Fund owns an indirect interest. Management fees for the Opportunity Funds are generally 1.75% annually of capital commitments during the commitment period, and thereafter, 1.75%, annually, of funded commitments reduced by the cost basis or write-down amount of each investment, or portion thereof, that has been disposed of or permanently written-down (as applicable). For the GSC Private Equity Funds, the amount of the management fee ranges between 0.875% and 1.75% annually of an amount based upon (a) during the investment period, the capital committed by the investors in the Fund, and (b) after the expiration of the investment period, the invested capital for such Fund. Management fees are generally calculated and paid quarterly and may be calculated and paid in advance (Private Equity Funds) or in arrears (Hedge Funds, CLOs) either by billing the client’s trustee, in the case of a CLO, by billing an offshore Hedge Fund’s or Private Equity Fund’s administrator or by direct deduction from a domestic

Hedge Fund or Private Equity Fund. Black Diamond does not receive a management fee from the Investment L.P.

Each Black Diamond client bears all of its own transactional expenses (or a *pro rata* portion of the transaction expenses where a transaction is for the benefit of multiple clients) including, as applicable, brokerage commissions, spreads, mark-ups, clearing and settlement costs, short dividends, commitment fees, interest expense, taxes and other transactional charges, any expenses associated with proposed investments that are ultimately not made, consultants' and other experts' fees, legal and due diligence expense (including travel expense), insurance expense, warehouse financing expense and custody expense. For a discussion of the brokerage arrangements that Black Diamond enters into on behalf of clients, see "Brokerage Practices."

Each Black Diamond client bears its own direct operating expenses, including, but not limited to offering expenses, legal, accounting, and auditing expenses, expenses associated with the preparation of financial statements, printing and mailing costs, market information systems and computer software expenses, fees of pricing services and financial modeling services, filing fees, trustee fees and expenses, directors' fees and expenses, as applicable (no fee being charged for directors affiliated with Black Diamond), administration fees and expenses and insurance expenses. Operating expenses borne by a client are described in such client's offering memorandum. In some instances, organization expenses for a client are subject to a dollar limitation, with expenses in excess of such limitation borne by Black Diamond or the applicable Black Diamond Affiliate.

Management fees and performance-based compensation, discussed below under "Performance-Based Fees and Side-by-Side Management," are generally not negotiable by investors in the Black Diamond clients, but Black Diamond and/or a client may, nevertheless, agree to waive, reduce or rebate all or any portion of the applicable management fees or performance-based compensation with respect to certain investors in a client (including, but not limited to, the Black Diamond Affiliates, their beneficial owners and their families and Black Diamond employees) without doing so for any other investor. With respect to private investment funds that Black Diamond may raise in the future, certain limited partners or shareholders may seek to negotiate terms (including fees payable to Black Diamond or Black Diamond Affiliates) through the negotiation of the limited partnership agreement, other similar documents or through side letters.

### **PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

Black Diamond receives performance-based compensation ranging from 20% of realized and unrealized gains (Hedge Funds) to 12.5% to 20% of the realized profits of the Private Equity Funds to 25% to 35% of interest proceeds payable to note holders (CLOs), paid annually or upon realization of investments or in connection with interest payments, as applicable, and subject to high water marks, return hurdles, preferred returns and/or claw-backs, as applicable.

The receipt of performance-based compensation creates a conflict of interest between Black Diamond's interest in earning a profit for itself in the short term and the long term interests of the Black Diamond clients and their investors. Specifically, Black Diamond may have an incentive to make investments that are riskier or more speculative than would be the case if Black Diamond were compensated solely based on a flat percentage of capital. With respect to the

Hedge Funds, Black Diamond may receive increased compensation because the performance-based compensation will be calculated on a basis which includes unrealized appreciation as well as realized gains, and any securities for which market quotations are not readily available will be valued by Black Diamond at such value as Black Diamond may reasonably determine in accordance with its valuation policy and applicable requirements. The Hedge Funds' administrator performs a reconciliation of cash, investor activity, and investments as part of its independent determination of the net asset value for the Hedge Funds, and produces the final capital/shareholder statements. Such valuations can affect the amount of performance compensation to be paid to Black Diamond.

Differing performance-based compensation structures may create an incentive for Black Diamond to favor one client over another when effecting transactions on behalf of multiple clients. See "Brokerage Practices," below, for a discussion of Black Diamond's procedures for allocating trades among clients.

### **TYPES OF CLIENTS**

Black Diamond's clients are private investment vehicles— hedge funds, private equity/distressed debt funds, mezzanine loan funds, collateralized loan obligation vehicles and collateralized debt obligation vehicles — the interests in which are offered pursuant to exemptions from registration under the Securities Act of 1933 and the Investment Company Act of 1940.

The investors in these vehicles are public and private employee benefit plans, trusts, corporations, other institutional investors, including private investment funds and endowments, and individuals. Minimum note denominations for CLOs (USD denominated notes) generally range between \$100,000 and \$500,000, and the minimum investment amounts in the Private Equity and Hedge Funds generally range from \$5 million to \$10 million, although Black Diamond and the relevant client may agree to permit an investment in an amount smaller than the minimum stated amount.

### **METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

Black Diamond advises clients with respect to investments in syndicated bank loans, middle market loans, asset based loans, real estate loans and/or mortgages, real estate investment trusts, equipment loans and financings, bridge loans, debtor-in-possession financing transactions and other restructuring financings, second lien transactions, aircraft financings, commercial real estate, mortgage-backed securities, asset-backed securities, publicly-traded and privately placed debt securities, and derivative instruments (primarily credit related, including credit default swaps). Black Diamond focuses on investments in companies or situations with substantial assets and/or enterprise value, primarily through an investment in such companies' senior debt. However, client investments may be investment grade or below investment grade, including non-performing. Black Diamond may also advise clients with respect to investments in equity securities (both long and short), U.S. and non-U.S. government securities, repurchase and reverse repurchase agreements and other financial instruments. Black Diamond's primary investment strategy is similar to that of an opportunistic asset-based lender or finance company pursuing investments in market sectors where it believes it will receive the highest risk-adjusted yield.



In conducting its investment analysis, Black Diamond performs fundamental credit research on potential investments and considers both quantitative and qualitative factors. Black Diamond analyzes such quantitative factors as capital structure, operating and revenue trends, cash flow consistency, collateral analysis, financial covenants, debt maturities and liquidity, and such qualitative factors as management quality, competitive position within the industry, equity sponsors, business fundamentals and legal structure. Black Diamond conducts a rigorous due diligence process with a particular emphasis on, among other factors, a company's market position within a sector, dependence on access to the capital markets to fund ongoing operations, management's ability to operate under current market conditions, liquidation value of underlying assets collateralizing the security being purchased, competitive environment and the extent of overcapacity in the applicable sector, and time frame required to see overcapacity eliminated. Black Diamond generally conducts due diligence through extensive management discussions, collateral appraisals, on-site visits, discussions with research analysts and other sources, as well as through the use of industry consultants unaffiliated with Black Diamond.

In effecting client transactions, Black Diamond may, at times, utilize leverage by purchasing securities with the use of borrowed funds, selling securities short, entering into warehousing, repurchase and other financing arrangements (and other securitizations, including through the formation of special purpose vehicles) that create leverage. The CLOs issue debt securities collateralized by a portfolio of leveraged loans and high yield bonds and, as a result, are highly leveraged.

A client portfolio as a whole, or specific investments within a client portfolio, may be hedged through short sales, the use of swaps, forward contracts or other negotiated notional principal transactions.

To the extent consistent with a client's investment mandate, Black Diamond may utilize an activist approach when investing client assets, including acquiring, on behalf of one or more clients, control or blocking positions in a target company's debt that may be converted into controlling equity interests through financial restructurings or reorganizations in bankruptcy.

### **Material Risks**

The following is a summary of some of the material risks associated with the investment strategy employed by Black Diamond on behalf of clients. This summary does not attempt to describe all of the risks associated with each client. Each client's offering memorandum contains a more complete description of the risks associated with an investment in each such client.

- Investing in below investment grade debt, the debt of financially-distressed companies, borrowing funds for investment purposes, short-selling and entering into swaps and other derivative transactions all entail significant risks. A client may acquire relatively illiquid investments which may not be readily marketable. As a result of such limited liquidity, market prices for such investments may be subject to greater volatility than is the case for most debt and equity securities. Bank loans, swaps and forward currency contracts are not traded on regulated exchanges, are not registered with U.S. or other governmental authorities and are not subject to the rules of any self-regulatory organization. Swap and forward contracts are generally entered into with banks, may not be assigned without the

consent of the counterparty, and may result in losses in the event of a default or bankruptcy of the counterparty.

- Black Diamond may invest client assets in distressed securities, loans and other obligations of domestic and foreign companies that are experiencing significant financial or business difficulties, including companies involved in bankruptcy or other reorganization and liquidation proceedings. The level of analytical sophistication necessary for successful investment in companies experiencing significant business and financial difficulties is unusually high. There can be no assurance that Black Diamond will correctly evaluate the value of a company's assets or the prospects for a successful reorganization or similar action. In any reorganization or liquidation proceeding relating to a company in which a client invests, the client may lose its entire investment, may be required to accept cash or securities with a value less than the original investment, and/or may be required to accept payment over an extended period of time.

Troubled companies require active monitoring and Black Diamond's involvement may, at times, require participation in business strategy or reorganization proceedings. To the extent that a client becomes involved in such proceedings, the client may have a more active participation in the affairs of the issuer than that assumed generally by an investor. In addition, involvement by Black Diamond in an issuer's reorganization proceedings could result in the imposition of restrictions limiting a client's ability to liquidate its position in the issuer.

Black Diamond, on behalf of a client, may, from time to time, seek representation on creditors' committees if Black Diamond believes that such representation may be beneficial to the client's position as a creditor. As a representative of the client on a creditors' committee, Black Diamond may owe certain obligations to all creditors similarly situated that the committee represents and may be subject to various trading or confidentiality restrictions.

- Black Diamond, on behalf of clients, invests in debt including, without limitation, "higher yielding" (and, therefore, higher risk) debt securities, when Black Diamond believes that debt securities offer opportunities for capital appreciation or other economic benefit. In most cases, such debt will be rated below "investment grade" or will be unrated and face ongoing uncertainties and exposure to adverse business, financial, or economic conditions and the issuer's failure to make timely interest and principal payments. The market values of certain of these debt securities may reflect individual corporate developments. It is likely that a major economic recession could have a materially adverse impact on the value of such securities. In addition, existing levels of credit support or the borrower's equity in the underlying collateral may be insufficient to protect clients from loss. Further, adverse publicity and investor perceptions regarding the issuers of these securities or the industries or markets in which they operate may also decrease the value and liquidity of these debt securities.
- Black Diamond's investments may be or may become highly illiquid, and there is no assurance that a Black Diamond fund will be able to realize returns on such investments in a timely manner, if at all. In its mezzanine financing strategy, Black Diamond may

invest in businesses with little or no operating history. Investments in the mezzanine financing and distressed investing strategies may be in businesses with high levels of debt, which carry greater risks if revenues decline and expenses increase. Black Diamond's decision to invest in these businesses depends sometimes on the past successful performance of the management running these companies, and there is a risk that the management may not perform successfully in the future.

Black Diamond is subject to the risk that it will not recover on its investments if the portfolio companies in which it invests default on their obligations. Clients providing mezzanine financing will not have the same right to recover from a defaulting debtor as a secured creditor. Clients following a recovery or distressed investing strategy bear the risks of default of the underlying investments.

- Black Diamond may invest client assets in companies involved in, or that become involved in, bankruptcy proceedings. There are a number of significant risks when investing in companies involved in bankruptcy proceedings. For example: many events in a bankruptcy are the product of contested matters and adversary proceedings which are beyond the control of the creditors; following a bankruptcy filing, a company may lose its market position and key employees and otherwise become incapable of restoring itself as a viable entity; in a liquidation, the liquidation value of the company may not equal the liquidation value that was believed to exist at the time of the investment; the duration of a bankruptcy proceeding is difficult to predict and a creditor's return on investment can be adversely affected by delays while the plan of reorganization is being negotiated, approved by the creditors and confirmed by the bankruptcy court; the administrative costs in connection with a bankruptcy proceeding are frequently high and will be paid out of the debtor's estate prior to any return to creditors; creditors can lose their ranking and priority if they exercise "domination and control" over a debtor and other creditors can demonstrate that they have been harmed by such actions, especially in the case of investments made prior to the commencement of bankruptcy proceedings; and certain claims, such as claims for taxes, may have priority by law over the claims of certain creditors.
- There are varying sources of statistical default rate data for loans and high yield securities and numerous methods for measuring default rates. The historical performance of the high yield market or the leveraged loan market is not necessarily indicative of its future performance. Should increases in default rates occur with respect to the securities in which clients invest, the actual default rates of such securities may exceed the hypothetical default rates used by Black Diamond in determining to purchase such securities.
- Clients may invest in loan participations, which involve certain risks in addition to those associated with direct loans. A loan participant may not have a contractual relationship with the borrower of the underlying loan. As a result, in such circumstances, the participant is generally dependent upon the lender to enforce its rights and obligations under the loan agreement in the event of a default and may not have the right to object to amendments or modifications of the terms of such loan agreement. A participant in a syndicated loan also may not have voting rights, in which case such voting rights are

retained by the lender. In addition, a loan participant is subject to the credit risk of the lender as well as the borrower, since a loan participant is dependent upon the lender to pay its percentage of payments of principal and interest received on the underlying loan. Loan participations are also subject to the possible invalidation of an investment transaction as a “fraudulent conveyance” under relevant creditors’ rights laws and so-called “lender liability” claims by the issuer of the obligations.

- The value of the fixed-rate securities in which clients invest generally will have an inverse relationship with interest rates. Accordingly, if interest rates rise, the value of such securities may decline. In addition, to the extent that the receivables or loans underlying specific securities are prepayable, the value of such securities may be negatively affected by increasing prepayments, which generally occur when interest rates decline.
- Client investment activities may involve spreads between two or more positions (e.g., loans and LIBOR instruments). Unfavorable changes in the price differential between positions may cause significant losses, particularly when magnified by the leverage used in constructing the position. Changes in the shape of the yield curve may similarly cause losses for certain fixed-rate investments.
- A portion of a client’s portfolio may consist of securities, loans and other financial instruments that are not actively and widely traded. Consequently, it may be relatively difficult to dispose of such investments rapidly and at favorable prices in connection with adverse market developments or other factors. Illiquid securities may also be more difficult to value.
- Black Diamond may invest client assets in subordinated structured securities. In general, the risks associated with an investment in structured securities include those of investing in fixed income instruments with positive duration as well as those arising from investment in the underlying pool of receivables. In particular, the value of receivables will be influenced by the rate of delinquencies and defaults experienced on the receivables and by the severity of loss incurred as a result of such defaults. The structures used to issue these securities are often complex, unusual and difficult to analyze, and clients will still be subject to the risk that Black Diamond will not identify all potential risks or other material aspects of the investment.
- Clients may enter into swaps, forwards and other negotiated principal transactions and sell securities short for hedging, leveraging or other purposes. Typically, these techniques involve one or more of the following risks: (i) imperfect correlation between the performance and value of the instrument and the value of the client securities or other objective of Black Diamond; (ii) possible lack of a secondary market for closing out a position in such instrument; (iii) losses resulting from interest rate, spread or other market movements not anticipated by Black Diamond; (iv) the possible obligation to meet additional margin or other payment requirements, all of which could worsen a client’s position; and (v) default or refusal to perform on the part of the counterparty with which the client trades.

- Client accounts may, at times, utilize leverage by purchasing securities with the use of borrowed funds and other leveraging techniques. The use of leverage magnifies gains and losses attributable to other investment practices such as investing in below investment grade instruments.
- The investment strategies utilized by Black Diamond may entail the use of leverage, and the financing arrangements may contain mark-to-market provisions, which could result in margin calls that may be material and adverse to a client.
- Black Diamond uses swaps and may use other derivative financial instruments, including, without limitation, warrants and options, both for hedging and speculative purposes. The use of derivative instruments involves a variety of material risks, including the high degree of leverage often embedded in such instruments and the possibility of counterparty non-performance as well as of material and prolonged deviations between the actual and the theoretical value of a derivative (*i.e.*, due to nonconformance to anticipated or historical correlation patterns). In addition, the markets for certain derivatives are frequently characterized by limited liquidity, which can make it difficult as well as costly to close out positions in order either to realize gains or to limit losses.

Although recent legislative changes require many “over-the-counter” derivative transactions previously entered into on a principal-to-principal basis to be submitted for clearing by a regulated clearinghouse, certain of the derivatives that may be traded by Black Diamond clients may remain principal-to-principal or over-the-counter contracts between the Black Diamond client and third parties entered into privately, rather than on an exchange. In privately negotiated transactions, the risk of the negotiated price deviating materially from fair value is substantial, particularly when there is no active market available from which to derive benchmark prices.

Many derivatives are valued on the basis of dealers’ pricing of these instruments. However, the price at which dealers value a particular derivative and the price which the same dealers would actually be willing to pay for such derivative may be materially different.

- Black Diamond, on behalf of clients, may purchase and sell credit derivatives contracts - primarily credit default swaps - both for hedging, investment and other purposes.

As a buyer of credit default swaps, a client will be subject to certain risks in addition to those described above. For example, in circumstances in which the client has a delivery obligation but does not own the debt securities that are deliverable under a credit default swap, the client will be exposed to the risk that deliverable securities will not be available in the market, or will be available only at unfavorable prices. In certain instances of issuer defaults or restructurings, it has been unclear under the standard industry documentation for credit default swaps whether or not a “credit event” triggering the seller’s payment obligation had occurred. In either of these cases, the client may not be able to realize the full value of the credit default swap upon a default by the reference entity.

As a seller of credit default swaps, a client will incur leveraged exposure to the credit of the reference entity and is subject to many of the same risks it would incur if it were holding debt securities issued by the reference entity. However, the client will not have any legal recourse against the reference entity and will not benefit from any collateral securing the reference entity's debt obligations. In addition, the credit default swap buyer may have broad discretion to select which of the reference entity's debt obligations to deliver to the client following a credit event.

- Client assets are often invested in instruments and securities that are not traded on "exchange based" markets. The participants in such markets are typically not subject to the same credit evaluation and regulatory oversight as are members of "exchange-based" markets. In addition, many of the protections afforded to participants on some organized exchanges, such as the performance guarantee of an exchange clearinghouse, might not be available in connection with such non-cleared "over-the-counter" transactions. This exposes clients to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem, thus causing a client to suffer a loss. Moreover, Black Diamond, on behalf of a client, may not have the ability to conduct a meaningful and independent evaluation of such counterparties' financial capabilities. Such "counterparty risk" is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where transactions are concentrated with a single or small group of counterparties. In addition, counterparties may, from time to time, cease making markets or quoting prices in certain instruments resulting in an inability for a client to enter into a desired transaction or to enter into an offsetting transaction with respect to an open position, which might adversely affect client performance. In addition, Black Diamond may, on behalf of clients, use counterparties located in various jurisdictions outside the United States. Such counterparties would be subject to various laws and regulations in various jurisdictions that are designed to protect their customers in the event of their insolvency. However, the practical effect of these laws and their application to client assets are subject to substantial limitations and uncertainties.
- Client assets may be invested in securities of non-U.S. issuers and securities denominated in non-U.S. currencies and related derivative and currency contracts. Investing in non-U.S. securities and/or currencies may present a greater degree of risk than investing in U.S. securities due to possible exchange rate fluctuations, possible exchange controls, less publicly-available information, more volatile markets, less securities regulation and less favorable tax provisions (including possible withholding taxes). While Black Diamond generally seeks to hedge currency risk fluctuation, there is no assurance that it will be able to do so or that any such hedging will be effective.

Investments in non-U.S. securities may be affected by political, social and economic uncertainty affecting a country or region. The legal and regulatory environment may also be different between countries, particularly as to bankruptcy and reorganization. There may be less publicly available information about certain non-U.S. companies than would be the case for comparable companies in the United States and certain non-U.S. companies may not be subject to accounting, auditing and financial reporting standards

and requirements comparable to or as uniform as those of United States companies. Securities markets outside the United States, while growing in volume, have for the most part substantially less volume than U.S. markets, and many securities traded on these non-U.S. markets are less liquid and their prices more volatile than securities of comparable United States companies. In addition, settlement of trades in some non-U.S. markets is much slower and more subject to failure than in U.S. markets. These risks may be greater for companies in emerging markets.

- Client assets may be invested in equity securities, whether publicly traded or privately issued, that Black Diamond believes to be undervalued. The identification of investment opportunities in undervalued securities is a difficult task, and there is no assurance that such opportunities will be successfully recognized or that the securities purchased will, in fact, be undervalued or not result in substantial losses. Clients may also invest in equity securities, generally unregistered and privately issued, to acquire a control position in the issuer of such securities. Such securities may be illiquid and may be substantially subordinated to other instruments in the issuer's capital structure. In addition, clients may be required, as a matter of law, contract or market conditions, to hold such securities for a substantial period of time before realizing their anticipated value or ultimately capitalizing on the overall investment in the issuer. During this period, such securities may be subject to wide and sudden fluctuations in market value, and the capital committed to such investments will not be available for investment in other opportunities. There can be no assurance that the returns generated from equity investments will adequately compensate clients for the business and financial risks assumed.
- Black Diamond may at times allocate a substantial portion of client capital to a limited number of securities or other investments. This lack of diversification may expose the client to substantial losses in the event one or more concentrated positions experience substantial losses.
- Certain of Black Diamond's investment activities on behalf of clients may include activities that are contentious in nature and could subject it to the risks of becoming involved in litigation with third parties. This risk may be greater where a client, or a client together with other clients of Black Diamond, exercises control or significant influence over a company's direction. The acquisition, ownership and disposition of real property also expose clients to the risk of litigation. The expense of litigating claims against third parties and paying any amounts pursuant to settlements or judgments would be borne by the client.

### **DISCIPLINARY INFORMATION**

Black Diamond has no legal or disciplinary events to report that would be material to a client's or prospective client's evaluation of Black Diamond's advisory business or the integrity of its management.

## **OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

Each of the Black Diamond Affiliates serves either as investment adviser to and/or general partner of a client. The Black Diamond Service Affiliates provide investment advisory services to other Black Diamond Affiliates. The Black Diamond Affiliates and the Black Diamond Service Affiliates are not separately registered as investment advisers with the SEC, but are relying on the SEC registration of BDCM, with whom they are under common control.

Black Diamond Commercial Finance, L.L.C., a commercial loan origination firm (“BDCF”), is affiliated with Black Diamond by common ownership. Black Diamond clients may purchase loans originated, structured or serviced by BDCF for which BDCF receives fees. Conflicts of interest arising out of such transactions are discussed below under “Code of Ethics, Participation or Interest in Client Transactions and Personal Trading –Conflicts of Interest.”

Black Diamond Capital Management Limited is located in London, England, and is authorized by the U.K. Financial Services Authority. Black Diamond Capital Management Limited is primarily responsible for identifying and monitoring investments made by clients managed by Black Diamond, primarily for the European Mezzanine Funds and the GSC European CDOs, as well as the European CDO Funds that are still managed by GSCP (NJ), L.P. and subject to the Services Agreement with GSCAH.

## **CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

### **Code of Ethics**

Black Diamond has adopted a Code of Ethics predicated on the principle that Black Diamond owes a fiduciary duty to its clients. Accordingly, Black Diamond’s employees must avoid activities, interests and relationships that run contrary (or appear to run contrary) to the best interests of its clients. The following set of principles frames the professional and ethical conduct that Black Diamond expects from its employees:

- Act with integrity, competence, diligence and in an ethical manner with the public, clients, prospective investors, employers, employees, colleagues in the investment profession, and other participants in the global capital markets;
- Place the interests of clients above one’s own personal interests;
- Adhere to the fundamental standard that the employee should not take inappropriate advantage of his or her position;
- Comply with the Black Diamond Insider Trading Policy and the Prohibition on Personal Trading;
- Use reasonable care and exercise independent professional judgment when conducting investment analysis, making investment recommendations, taking investment actions and engaging in other professional activities;
- Practice and encourage others to practice in a professional and ethical manner that will reflect credit on himself or herself and the profession;



- Promote the integrity of, and uphold the rules governing, capital markets;
- Maintain and improve his or her professional competence and strive to maintain and improve the competence of other investment professionals; and
- Comply with applicable provisions of the federal securities laws.

The Code of Ethics provides that Black Diamond employees may not purchase or sell any security for their own accounts in a proprietary account unless the transaction occurs in open-end mutual funds, including money market funds, or unit investment trusts that invest exclusively in open-end mutual funds, exchange traded funds, direct obligations of the U.S. government, municipal securities, commercial paper and high quality short-term debt instruments, bankers acceptances and bank certificates of deposit, commodity futures and commodity pools and private investment funds, in accordance with reporting and certain pre-clearance procedures.

The Code of Ethics also provides that Black Diamond employees are prohibited from effecting transactions on behalf of any Black Diamond client in publicly traded securities issued by companies for which Black Diamond possesses material non-public information. All employees, whether investment professionals or non-investment professionals, will be regarded as having access to any non-public information about a public company that has been received by any other employee.

Black Diamond will provide, at no cost, a copy of its Code of Ethics to its clients and prospective clients (or clients in formation), including, as appropriate, their boards of directors or trustees. Black Diamond will also provide a copy of its code of ethics to the investors in clients upon request.

### **Conflicts of Interest**

Black Diamond may enter into transactions constituting principal transactions, within the meaning of Section 206(3) of the Advisers Act, with clients of the Black Diamond Affiliates. In such transactions, Black Diamond would act as principal for its own account with respect to the sale of a security to or purchase of a security from the client. Principal transactions will be completed in compliance with the Advisers Act and any other applicable law. The Hedge Funds, Private Equity Funds and CLOs maintain advisory or investor committees, as disclosed in the relevant offering memoranda, to which principal transactions are submitted for approval or denial of approval. Approval by the advisory or investor committee constitutes consent of the client for Black Diamond to engage in such transactions. Any advisory or investor committee member affiliated with Black Diamond will be recused from voting with respect to principal transactions or other issues that may give rise to a conflict of interest.

It is expected that a portion of the assets of Black Diamond clients may be loans in respect of which BDCF originated, assisted in structuring or acted or acts as an agent and in respect of which BDCF receives origination and/or other fees. To the extent that such transactions are principal transactions, such transactions will be completed in compliance with the Advisers Act (which may be accomplished by seeking the prior consent of an independent advisory committee to the terms of purchase as set forth in a client offering memorandum).

BDCM Opportunity Fund Adviser, L.L.C., BDCM Opportunity Fund II Adviser, L.L.C., BDCM Opportunity Fund III Adviser, L.L.C. and GSCAH each serve as investment adviser to a domestic Private Equity Fund, organized as a limited partnership, which invests (or will invest) substantially all of its assets into a related offshore Private Equity Fund, or into which a related offshore Private Equity Fund invests (or will invest) substantially all of its assets, in each case such funds being advised by the same adviser. The management fee applicable to a Private Equity Fund investor is waived with respect to its related upper or lower tier fund's investment, as applicable, so investors in the Private Equity Funds do not bear dual management fees.

Each Black Diamond Affiliate serving as general partner of a client fund organized as a limited partnership maintains a general partner interest in the client fund. BDCM Fund Adviser, L.L.C., its beneficial owners and employees of Black Diamond collectively hold direct investments and other rights representing a significant percentage of the aggregate assets of the Hedge Funds. The general partners of the Private Equity Funds and certain employees of Black Diamond or former employees of GSC hold direct investments or other rights in the Private Equity Funds. Black Diamond believes that its interests, and those of its principals and employees, in Black Diamond clients align Black Diamond's interests with those of investors in the clients and do not give rise to any significant conflict of interests.

BDCM Fund Adviser, L.L.C. serves as the investment adviser to the Hedge Funds' master fund. The master fund has invested in certain of the Opportunity Funds and each of the BD CLOs and certain of the Opportunity Funds have invested in the offshore Hedge Funds. These investments, and the potential for similar investments in the future, are disclosed in the offering memoranda for the applicable fund. The Black Diamond Affiliates receiving management fees or performance based compensation from the Opportunity Fund and the BD CLOs rebate to the master fund such management fees and compensation earned in respect of the master fund's investments in these funds so that investors do not bear dual management fees.

Other Funds formerly managed by GSC have invested in securities issued by GSC CDOs or other issuers formerly managed under GSC. For example, a European Mezzanine Fund and certain GSC Private Equity Funds hold interests in several GSC CDOs and certain GSC CDOs have participated in loans for portfolio companies controlled by Funds formerly managed by GSC. The terms of these investments include a reduction or assignment of the management and other fees payable by investors in such Funds or the assignment of all or a portion of the management fees in such investment vehicles earned in respect of such investments.

Black Diamond may invest in different classes of securities of an issuer on behalf of its clients based upon the particular investment objectives and strategies of such clients. If clients hold different classes of securities of an issuer and that issuer encounters financial problems, decisions over the terms of any workout or reorganization may raise conflicts of interests. For example, a senior debt holder may be better served by a liquidation of the issuer in which it will be paid in full, whereas a junior debt holder might prefer a reorganization that could create value for the junior debt holder.

Black Diamond may make an investment recommendation regarding certain securities or financial instruments based on a client's specific investment objectives and strategies that may be contrary to an investment held by or recommendation made to another client. For example, a

client may hold a long position in a certain company and at the same time another client may hold a short position in the same company, or a client may directly or indirectly have exposure to a loan that is contrary to or at a different level than that of another client. Black Diamond will make investment decisions separately based upon the investment objectives, risk and return profile, existing exposure to security, issuer or industry, liquidity considerations and other potentially competing factors applicable to each of its clients.

Black Diamond has adopted policies and procedures to address potential conflicts among clients. Relevant policies and procedures for a particular client are described in greater detail in the client's governing documents or offering materials. With respect to affiliate transactions (including investments by a client in another investment vehicle advised by Black Diamond), the relevant governing documents may provide for consultation regarding or approval of such transactions by a person or body such as a trustee, a board of directors, an advisory committee comprised of limited partners of the investing fund or, by an advisory board comprised of independent investment professionals. Black Diamond's policies and procedures for addressing such potential conflicts, together with the provisions of relevant governing documents concerning such potential conflicts, may limit the ability of Black Diamond to buy or sell a security for a client or otherwise participate in an investment opportunity for a client or to take other actions that it might consider in the best interests of a client and its investors.

Black Diamond may from time to time acquire, hold or sell, for its own account, loans and securities which may also be appropriate for, or purchased or sold for, Black Diamond clients. Black Diamond has no duty in making any such investments to act in a way that is favorable to the Black Diamond clients, and such investments may be different from those made on behalf of the Black Diamond clients. Except as may be required by applicable provisions of the Advisers Act, Black Diamond is not under any obligation to offer investment opportunities of which it becomes aware to any particular client or share with or inform any particular client of any such investments before engaging in any investments for themselves. Black Diamond will endeavor to identify and resolve conflicts with respect to investment opportunities in a manner that it deems equitable under the facts and circumstances and in accordance with applicable legal requirements. In the case of prospective investments which are suitable for client accounts and in which client accounts are able to invest, Black Diamond will consider whether the clients will make such investments prior to any investment being made by Black Diamond. If the client accounts (because of suitability, asset allocation, liquidity, capacity or other reasons) do not invest or do not utilize all or any portion of the opportunity, Black Diamond may make an investment. Also, see "Brokerage Practices –Trade Allocation" below.

### **Trade Errors**

Black Diamond may on occasion experience errors with respect to trades made on behalf of clients, although the nature of the assets in which Black Diamond's clients trade and the manner and timing under which such trades are conducted in the marketplace makes such errors relatively uncommon. Black Diamond attempts to minimize trade errors by promptly reconciling trade confirmations, trade tickets, commitment letters and assignment documents. Black Diamond also reviews past trade errors to assess whether a trade error was a result of a weakness in internal controls. If it is determined that a weakness in internal controls caused or contributed to the error, mitigating controls are established to rectify the identified control weakness. If

trading errors do occur, they are for the account of the client unless they are the result of Black Diamond's or its personnel's willful misconduct, bad faith or gross negligence or as otherwise provided in the governing documents of the client.

### **BROKERAGE PRACTICES**

Black Diamond uses a variety of securities brokers and dealers on behalf of clients and may have long-standing business relationships with a number of such brokers and dealers. Black Diamond is responsible for the placement of client portfolio transactions and the negotiation of prices and commissions, if any, with respect to such transactions. Fixed income and unlisted equity securities are generally purchased from a primary market maker acting as principal on a net basis without a stated commission but at prices generally reflecting a dealer spread or mark-up. Listed equity securities are normally purchased through brokers in transactions executed on securities exchanges involving negotiated commissions. Both fixed income and equity securities are also purchased in underwritten offerings at fixed prices which include discounts to underwriters and/or concessions to dealers.

In selecting brokers and dealers for clients and placing portfolio transactions, Black Diamond will consider such factors as price (including the applicable dealer spread or commission, if any), execution capabilities, reputation, infrastructure, reliability, financial resources, and the quality of any research products or services and other value added services, although, as of the date hereof, Black Diamond is not receiving research products or services in connection with client brokerage arrangements.

If Black Diamond does determine to engage in "soft dollar" arrangements, a client may pay commissions, spreads or mark-ups to a broker or dealer in an amount greater than the amount another broker or dealer charges if Black Diamond determines, in good faith, that the amount of commissions, spreads or mark-ups charged by such broker or dealer is reasonable in relation to the value of the brokerage, research products or services and any other property, products or services provided by such broker or dealer. Any such research and/or other services or products obtained with "soft dollars" generated by a client's transactional activity may be used by Black Diamond to service clients other than the client generating such "soft dollars" and would be a benefit to Black Diamond in that Black Diamond would not have to pay for or provide such research, services or other products itself. Black Diamond will provide clients and their investors with information about any products or services provided by broker dealers pursuant to "soft dollar" arrangements and will provide more detailed information about any such products or services falling outside the safe-harbor of Section 28(e) of the Securities and Exchange Act of 1934.

Black Diamond has established procedures for allocating investments purchased and sold among Black Diamond Affiliate clients and determining the manner and order in which transactions for multiple clients are executed. In general, investments are purchased or sold on behalf of clients based on the respective investment objectives and policies of each client. Allocations of investments will be made first by determining the client or clients for which a particular investment is appropriate. If the investment is appropriate for more than one client, an allocation between or among such clients will be generally made either on a pro rata basis across different clients based on client size, current investment in a particular borrower or other relevant criteria,

or on a non-pro rata basis based on such criteria as: a client already having sufficient exposure to the securities, issuer, industry or market in question; the different liquidity positions and requirements of the participating clients; tax considerations; regulatory considerations; relative risk and return profiles of the participating clients; different investment strategies; portfolio concentration and diversification considerations; contractual investment restrictions; minimum investment criteria or minimum transfer size for the applicable investment; and/or investment time horizon.

If Black Diamond determines that the purchase or sale of the same security is in the best interests of more than one client, Black Diamond may, but is not obligated to, aggregate orders in order to reduce transaction costs to the extent permitted by applicable law. When an aggregated order is filled through multiple trades at different prices on the same day, Black Diamond will use its best efforts to cause each participating client to receive the average price with transaction costs allocated pro rata based on the size of each client's participation in the order, as determined by Black Diamond.

### **REVIEW OF ACCOUNTS**

Review of the investment activity and performance of each Black Diamond client is a continuous process. Investors in the Hedge Funds receive monthly performance reports, quarterly capital statements, annual audited financial statements and, if applicable, annual tax reporting information; investors in the Private Equity Funds receive quarterly performance reports and capital statements, annual audited financial statements and, if applicable, annual tax reporting information; and Black Diamond prepares and delivers reports to the trustees of the CLOs at least quarterly and annually and often provides periodic updates, reports, or letters to investors, in accordance with the governing documents for those vehicles or as may otherwise be deemed appropriate by Black Diamond.

### **CLIENT REFERRALS AND OTHER COMPENSATION**

Black Diamond does not pay for client referrals. Black Diamond may pay, out of its own funds directly or by offset against management fees, placement agents in connection with the sale of interests in the Private Equity Funds or the Hedge Funds. Underwriters distributing CLO notes receive placement fees and structuring fees and offer the notes to prospective purchasers in individually negotiated transactions at varying prices determined at the time of sale which may be a higher price than that paid by the underwriter when it purchased the notes from the CLO.

Black Diamond or its respective members, officers or employees, as applicable, may, subject to provisions regarding entitlement to ancillary fees set forth in client governing documents, receive advisory fees, organization or success fees, break-up fees, directors' fees, monitoring fees, consulting fees, transaction fees and other similar fees. In addition, Black Diamond Commercial Finance, L.L.C., a loan origination company affiliated with Black Diamond, may receive syndication and origination fees, agent fees, administration fees and similar fees in connection with any loan originations or other related activities notwithstanding a client's purchase of loans originated by Black Diamond Commercial Finance, L.L.C, whether the foregoing are paid in cash, securities or other property, from issuers of client investments (or from third parties in relation to client investments or issuers of client investments) in respect of services performed by

such persons for such entities, all or a portion of which Black Diamond or such other persons will retain. Directors fees paid to Black Diamond employees for serving on the board of directors of any company in which clients are invested will, subject to provisions regarding entitlement to ancillary fees set forth in client governing documents, be retained by Black Diamond.

### **CUSTODY**

Client assets are held in custody by unaffiliated qualified custodians. However, Black Diamond is deemed to have custody of the assets of the clients for which a Black Diamond Affiliate serves as general partner (and may be deemed to have custody of the assets of certain other clients). Investors in Black Diamond clients do not receive account statements from custodians; rather, each client the assets of which Black Diamond has or is deemed to have custody is subject to an annual audit by an auditor registered with and subject to inspection by the Public Company Accounting Oversight Board and the audited financial statements are distributed to each investor in each client within 120 days of each such client's fiscal year-end.

Black Diamond does not have custody of the assets of the CLOs.

### **INVESTMENT DISCRETION**

Subject to applicable standards set forth in the governing documents for the funds, including the CLO indentures, Black Diamond has no limit on its discretionary authority to determine the type, amount and price of securities or investments to be bought and sold on behalf of clients, including the selection of and commissions paid to brokers, consistent with client investment mandates as expressed in the relevant client governing documents.

Black Diamond is granted its authority to trade on behalf of clients pursuant to a power of attorney included within an investment management agreement entered into by the client and the relevant Black Diamond Affiliate or pursuant to the limited partnership agreement of a limited partnership client.

### **VOTING CLIENT SECURITIES**

Black Diamond accepts authority to vote securities held by its clients. It is the policy of Black Diamond when exercising voting rights to do so on behalf of clients in the interest of maximizing client investor value. To that end, Black Diamond will vote in a way that it believes, consistent with its fiduciary duty, will, over time, cause the value of the investment to increase the most or decline the least. Consideration will be given to both the short and long term implications of the proposal to be voted on when considering the optimal vote. Black Diamond has in place voting procedures designed to enable Black Diamond to resolve material conflicts of interest that may arise between Black Diamond and its clients and their investors before exercising voting rights.

Black Diamond clients, including, as appropriate, their boards of directors or trustees, may obtain a copy of Black Diamond's proxy voting policies and procedures and information about how Black Diamond has exercised voting rights with respect to assets held by such clients by request to Black Diamond. It is Black Diamond's policy not to reveal or disclose to any investor in any Black Diamond client how Black Diamond may have voted (or intends to vote) on a

particular matter. Black Diamond will never disclose such information to unrelated third parties unless doing so would be in the client's best interest.

Black Diamond does not commit to participate in all class actions that may arise with regard to any client portfolio securities. Black Diamond will evaluate the costs versus the benefits of participation in the suit for each pertinent client and unless it determines that it would be in the best interests of the client, Black Diamond will not elect to participate in the class action.

### **FINANCIAL INFORMATION**

Black Diamond is not aware of any financial condition that is reasonably likely to impair its ability to meet contractual commitments to clients.